THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.22369 OF 2007

Date: 14.12.2007

Between:

S.Chandra Rao

. . .Petitioner

AND

The Executive Engineer, Visakhapatnam and another

. . .Respondents

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.22369 OF 2007

ORDER:

This writ petition is filed for an appropriate writ to set aside proceedings, dated 21.06.2007 issued by respondent No.1 whereby the work entrusted to the petitioner under Work Order, dated 22.03.2007 under Build Operate and Transfer (BOT) Scheme is cancelled.

The respondents issued tender notice, dated 03.01.2007 inviting tenders for construction of VOLVO Shed at Bus Depot, Visakhapatnam under BOT Scheme. The tenders were opened on 19.01.2007 and the respondents issued Work Order, dated 22.03.2007 to the petitioner. The petitioner averred in his affidavit that he deposited the balance EMD of Rs.1,550/- by way of demand draft and also executed a Non-Judicial Stamp Paper of Rs.100/- before 29.03.2007 and complied with all the formalities to enable him to make construction. In paragraph 5, he, however, stated that he came to the office prior to 29.03.2007 along with additional EMD of Rs.1,550/- by way of demand draft and Rs.100/- worth bond paper and both were taken by respondent No.1.

The grievance of the petitioner is that despite his approaching the respondents, on many occasions, the petitioner was not permitted to start construction. After cancellation of Work Order on 21.06.2007, the petitioner got issued legal notice dated 24.07.2007 to the respondents informing that he incurred an expenditure of Rs.1,50,000/- in ordering material for construction of shed and in turn, the respondents got issued reply notice, dated 25.07.2007.

On behalf of the respondents, Smt. J.Sreelatha, Law Officer of Andhra Pradesh State Road Transport Corporation filed counter-affidavit, in which the allegation of the petitioner that he entered into an agreement with respondent No.1 is denied. It is stated that as per the terms and conditions of Work Order, the petitioner was requested to deposit additional EMD of Rs.1,550/- and a non-judicial stamp paper worth Rs.100/- for entering into an agreement, but he has not shown any interest to comply with the conditions stipulated in the acceptance letter, dated 22.03.2007. It is further averred that the petitioner has to obtain approved steel structural drawing with Sectional details of Trusses, Girders, Purlins etc., from the Corporation and that until the sectional details of such material are provided to the petitioner, he cannot place order for their manufacture. The deponent denied the allegation of the petitioner that he issued Work Order for manufacturing of the said items required for raising the structure. The counter-affidavit also denied the allegation that cancellation of Work Order was with an ulterior motive and it is further stated that the Corporation decided to shift Visakhapatnam Depot to a place, by name, Madhurawada which is 12 kms away from the place, in which, the depot presently exists and that in view of the said proposal, there is no necessity for construction of a shed in that site for maintenance of 'Volvo' buses, and therefore, the work Order allotted to the petitioner was cancelled.

Heard Sri C.Upendra for Sri E.V.Bhagiratha Rao, learned counsel for the petitioner and Sri K.Madhava Reddy, learned counsel for the respondents.

It is an admitted fact that Work Order was issued in favour of the petitioner on 22.03.2007. The averments contained in the affidavit

relating to the entering into an agreement are equivocal. There is no specific assertion in the affidavit that agreement was in fact, entered into. The pleadings contained in paragraphs 3 and 5 would only indicate that the petitioner deposited stamp paper worth Rs.100/-. This coupled with the fact that the respondents denied entering into an agreement and the further fact that he failed to file a copy of the agreement show that no agreement was entered into. The order impugned in this writ petition, by which the Work Order was cancelled indicates “administrative reasons” as the ground for cancellation of the Work Order. The respondents in their counter-affidavit have elaborated the said administrative reasons by stating that there is a proposal to shift the depot from Visakhapatnam to Madhurawada. The petitioner has not filed any rejoinder contraverting this claim of the respondents. I am, therefore, of the view that cancellation of Work Order does not suffer from any illegality, which entitles the petitioner to the relief sought for by him in this writ petition. Though the petitioner claimed that he incurred an expenditure of Rs.1,50,000/- , the same is specifically denied in the counter filed on behalf of the respondents by stating that the question of petitioner incurring such expenditure would not have arisen as he has not submitted and got the approval of drawings for placing order for the supply of material. The questions whether any rights came to be vested in the petitioner by virtue of the Work Order in the absence of entering into an agreement and whether the petitioner is entitled to recover damages from the respondents, are required to be adjudicated by a civil Court if the petitioner avails common law remedy by way of a civil suit. The petitioner, in my considered view is not entitled to avail the public law remedy of invoking writ jurisdiction to force the respondents to construct a shed, which according to them, is not required in the changed

circumstances.

For the aforementioned reasons, the writ petition fails and is accordingly dismissed.

C.V.NAGARJUNA REDDY, J

14th DECEMBER, 2007

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